

Senate Bill No. 536

Passed the Senate September 8, 2005

Secretary of the Senate

Passed the Assembly September 8, 2005

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 25354.5 of the Health and Safety Code, relating to hazardous substances, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 536, Bowen. Illegal Drug Lab Cleanup Account: methamphetamine.

Existing law requires the Department of Toxic Substances Control to take removal actions with respect to a hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, or a material intended to be used in the unlawful manufacture of a controlled substance.

Existing law provides that for purposes of the hazardous waste control laws and the Carpenter-Presley-Tanner Hazardous Substance Account Act, a person who is found to have operated a site for the purposes of manufacturing an illegal controlled substance, as specified, is the generator of any hazardous substance at, or released from, the site. The department is authorized to adopt regulations to implement these provisions in consultation with local law enforcement and local environmental agencies. The department is authorized to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this purpose. Existing law, the Budget Act of 2005, appropriates \$2,073,000 from the Illegal Drug Lab Cleanup Account to the Department of Toxic Substances Control.

Existing law prohibits a state agency from issuing, utilizing, or enforcing any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, that is a regulation, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule is adopted as a regulation pursuant to the Administrative Procedure Act.

This bill would require the department to develop sampling and analytical methods for the collection of methamphetamine residue, and by October 1, 2007, to adopt a health-based target remediation standard for methamphetamine. The bill would

require the department, by October 1, 2008, to the extent that funding is available, to adopt health-based target remediation standards for iodine, methyl iodide, and phosphine, and would authorize the department to develop additional health-based target remediation standards. The bill would require the department to adopt, by October 1, 2009, investigation and cleanup procedures for use in the remediation of sites contaminated by the illegal manufacturing of methamphetamine. The bill would require the department to develop those methods, standards, and procedures in a prescribed manner.

The bill would authorize the department to expend the funds in the Illegal Drug Lab Cleanup Account to develop those standards and procedures, including funding the interagency agreement, thereby making an appropriation by changing the purpose for which funds are appropriated from that account.

This bill would additionally provide that for purposes of the Methamphetamine Contaminated Property Cleanup Act of 2005, that is proposed to be added by Assembly Bill 1078, a person who is found to have operated a site for the purposes of manufacturing an illegal controlled substance, as specified, is the generator of any hazardous substance at, or released from, the site.

The bill would become operative only if AB 1078 is enacted and becomes effective on or before January 1, 2006.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION. 1. Section 25354.5 of the Health and Safety Code is amended to read:

25354.5. (a) A state or local law enforcement officer or investigator or other law enforcement agency employee who, in the course of an official investigation or enforcement action regarding the manufacture of any illegal controlled substance, comes in contact with, or is aware of, the presence of a substance that the person suspects is a hazardous substance at a site where an illegal controlled substance is or was manufactured, shall notify the department for the purpose of taking removal action, as necessary, to prevent, minimize, or mitigate damage that might otherwise result from the release or threatened release of the

hazardous substance, except for samples required under Section 11479.5 to be kept for evidentiary purposes.

(b) (1) Notwithstanding any other provision of law, upon receipt of a notification pursuant to subdivision (a), the department shall take removal action, as necessary, with respect to any hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, a material intended to be used in the unlawful manufacture of a controlled substance and any container for such a material, a waste material from the unlawful manufacture of a controlled substance, or any other item contaminated with a hazardous substance used or intended to be used in the manufacture of a controlled substance. The department may expend funds appropriated from the Illegal Drug Lab Cleanup Account created pursuant to subdivision (f) to pay the costs of removal actions required by this section. The department may enter into oral contracts, not to exceed ten thousand dollars (\$10,000) in obligation, when, in the judgment of the department, immediate corrective action to a hazardous substance subject to this section is necessary to remedy or prevent an emergency.

(2) The department shall, as soon as the information is available, report the location of any removal action that will be carried out pursuant to paragraph (1), and the time that the removal action will be carried out, to the local environmental health officer within whose jurisdiction the removal action will take place, if the local environmental officer does both of the following:

(A) Requests, in writing, that the department report this information to the local environmental health officer.

(B) Provides the department with a single 24-hour telephone number to which the information can be reported.

(c) (1) For purposes of Chapter 6.5 (commencing with Section 25100), Chapter 6.9.1 (commencing with Section 25400.10), or this chapter, any person who is found to have operated a site for the purpose of manufacturing an illegal controlled substance or a precursor of an illegal controlled substance is the generator of any hazardous substance at, or released from, the site that is subject to removal action pursuant to this section.

(2) During the removal action, for purposes of complying with the manifest requirements in Section 25160, the department, the county health department, the local environmental health officer, or their designee may sign the hazardous waste manifest as the generator of the hazardous waste. In carrying out that action, the department, the county health department, the local environmental health officer, or their designee shall be considered to have acted in furtherance of their statutory responsibilities to protect the public health and safety and the environment from the release, or threatened release, of hazardous substances, and the department, the county health department, the local environmental health officer, or their designee are not responsible parties for the release or threatened release of the hazardous substances.

(3) The officer, investigator, or agency employee specified in subdivision (a) is not a responsible party for the release or threatened release of any hazardous substances at, or released from, the site.

(d) The department may adopt regulations to implement this section in consultation with appropriate law enforcement and local environmental agencies.

(e) (1) The department shall develop sampling and analytical methods for the collection of methamphetamine residue.

(2) On or before October 1, 2007, the department, using guidance developed by the Office of Environmental Health Hazard Assessment, shall develop a health-based target remediation standard for methamphetamine.

(3) On or before October 1, 2008, the department shall, to the extent funding is available, develop health-based target remediation standards for iodine, methyl iodide, and phosphine.

(4) To the extent that funding is available, the department, using guidance developed by the Office of Environmental Health Hazard Assessment, may develop additional health-based target remediation standards for additional precursors and byproducts of methamphetamine.

(5) On or before October 1, 2009, the department shall adopt investigation and cleanup procedures for use in the remediation of sites contaminated by the illegal manufacturing of methamphetamine. The procedures shall assure that contamination by the illegal manufacturing of methamphetamine

can be remediated to meet the standards adopted pursuant to paragraphs (2) to (4), inclusive, to protect the health and safety of all future occupants of the site.

(6) The department shall implement this subdivision in accordance with subdivision (d).

(f) The Illegal Drug Lab Cleanup Account is hereby created in the General Fund and the department may expend any money in the account, upon appropriation by the Legislature, to carry out the removal actions required by this section and to implement subdivision (e), including, but not limited to, funding any interagency agreement entered into with the Office of Environmental Health Hazard Assessment to provide guidance services. The account shall be funded by moneys appropriated directly from the General Fund.

(g) The responsibilities assigned to the department by this section apply only to the extent that sufficient funding is made available for that purpose.

SEC. 2. This act shall become operative only if Assembly Bill 1078 of the 2005-06 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 2006.

Approved _____, 2005

Governor